



10 April 2018

s. 47F(1)

In reply please quote:

FOI Request: FA 18/01/00495

File Number: ADF2018/7189

Dear s. 47F(1)

Freedom of Information (FOI) request - Access Decision

On 13 January 2018, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following:

(a) Any documents (reports, minutes of meetings, emails, notes and the like) that include information on the new restriction limiting visits at the MITA detention centre in Broadmeadows, Victoria, to (in general) one detainee per visitor. (The new regulation is said to apply as of February 2018; the current limit is five.)

(b) In particular, I am seeking documents that shed light on the rationale behind the change, and on the planning of its implementation.

2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access document or to amend or annotate records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the document relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)

- advice from Departmental officers with responsibility for matters relating to the document to which you sought access
- the Department's guidance material on the FOI Act

4 Document in scope of request

The Department has identified one document as falling within the scope of your request. This document was in the possession of the Department on 13 January 2018 when your request was received.

Searches

The Department has undertaken reasonable searches in relation to the documents you have requested access to.

Having regard to your request and the types of document that may fall within the scope of your request I am satisfied that the searches conducted were extremely thorough and all reasonable steps have been taken to locate any document relevant to your request.

5 Decision

In relation to part (a) of your request:

- Release one document in full

In relation to part (b) of your request

- No documents exist therefore I am refusing access to this part of your request;

6 Reasons for decision

The reasons for my decision are outlined below:

In relation to part (a) of your request:

Whilst the Detention Visitors Fact Sheet addresses some aspects of part (a) of your request, I wish to provide clarification in relation to '*information on the new restriction limiting visits at the MITA detention centre in Broadmeadows, Victoria*'. This Departmental document is a national policy which applies to all detention facilities. The Melbourne Immigration Transit Accommodation (MITA) facility does not have a separate visitor policy to that of the attached.

In relation to part (b) of your request:

Section 24A of the FOI Act provides that the Department may refuse a request for access to a document if all reasonable steps have been taken to find the document and the Department is satisfied that the document does not exist.

Having considered the searches outlined above, I am satisfied that the Department has undertaken reasonable searches in relation to your request and that no documents were in the possession of the Department on 13 January 2018 when your FOI request was received. As such I am refusing access to the documents requested by you at part (b) of your request based on the application of section 24A of the FOI Act.

The legal framework in which the Department, the Australian Border Force (ABF) and the Facilities and Detainee Service Provider (FDSP) regulates the entry of visitors into Immigration Detention Facilities, and sets conditions on that entry, is found in both statute and common law principles.

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

8 Your Review Rights

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

By email to: foi.reviews@homeaffairs.gov.au

OR

By mail to:
Freedom of Information Section
Department of Home Affairs
PO Box 25
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.

Authorised Decision Maker

PN: s. 22(1)(a)(ii)

Department of Home Affairs